

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MAHMOUD BENJELLOUN,

PLAINTIFF,

v.

MICHAEL CHERTOFF, *et. al.*

DEFENDANTS.

Civil Action No. 07-1552

MEMORANDUM/ORDER

Plaintiff, a Moroccan citizen and U.S. permanent resident, seeks a writ of mandamus to compel the U.S. Citizenship and Immigration Services (“CIS”) to rule on his application for naturalization, on file since May 6, 2005. Defendant (“the government”), which includes CIS and the Federal Bureau of Investigation (“FBI”), contends that this court lacks subject matter jurisdiction over plaintiff’s mandamus action. The court recently rejected the government’s position in an opinion addressed to an indistinguishable factual setting. *See Shaat v. Klapakis*, No. 06-5625, 2007 WL 2768859 (E.D. Pa. 2007). The government has not produced any argument that persuades the court to depart from this holding. The court also finds that, for reasons delineated in *Kaplan v. Chertoff*, 481 F. Supp.2d 370, 400-01 (E.D. Pa. 2007), Congress has “imposed a mandatory duty on the FBI to perform background checks” on applicants for

naturalization. *See* Pub.L. No. 105-119 , 111 Stat. 2448 (1997); Pub.L. No. 101-515, 104 Stat. 2101, 2112 (1990); 8 C.F.R. §§ 316.4, 334.2; 72 Fed. Reg. 4888-01 (proposed February 1, 2007) (to be codified as 40 C.F.R. pt. 103). The court thus has jurisdiction to compel this “specific, plain, ministerial act devoid of the exercise of judgment or discretion.” *Harmon Cove Condo. Ass’n v. Marsh*, 815 F.2d 949, 951 (3d Cir. 1987).

Accordingly, this 4th day of October, 2007, it is ORDERED that defendant’s motion to dismiss is DENIED.

BY THE COURT:

/s/ Louis H. Pollak
Pollak, J.